

.FO 1

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8989 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-

1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes

JJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJ

2. To be referred to the Reporter or not? Yes

J

3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No

SEJALBEN BABUBHAI VATAVKAR

Versus

SECRETARY

Appearance:

MR PREMAL R JOSHI for Petitioner

MR TS SOMPURA, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 02/03/98

ORAL JUDGEMENT

This petition under Article 226 of the

Constitution is filed by a student who passed her Higher Secondary Examination in May, 1997 and applied for admissions to engineering courses. She had filled in the form, a copy of whereof is produced at Annexure II to the reply affidavit. The petitioner was required to indicate her options. When the interviews were held on September 8, 1997, the petitioner had mentioned that she was not interested in securing admission to any diploma course and that she was also not interested in securing admission to any degree engineering course where she was getting admission at that time.

2. Now, a dispute is raised that, according to the petitioner, she was being offered a payment seat in the degree engineering course. The Joint Director of Technical Education, in his affidavit dated January 29, 1998, has stated that when the petitioner was called for interview on September 8, 1997 free seat for Vallabh Vidhyanagar 'Mechanical' was available, but the petitioner did not accept the same. Hence, the petitioner cannot now make any grievance for her not getting any admission to any degree engineering course.

This disputed question of fact can not be decided in this petition, and that too at this belated stage.

3. The second round of admissions commenced in October, 1997 pursuant to the advertisements at Annexures B and C to the petition, which are advertisements published in Sandesh dated 9.10.1997 and 12.10.1997. The grievance of the petitioner is that the students lower down in the merit list even below the petitioner were given admissions to free seats in degree engineering courses in the second round. The petitioner was not informed about the dates of interview in the second round for students below Sr. No. 4500 in the merit list. The petitioner was at Sr.No. 6016 in the merit list as she had secured 322 out of 450 marks in science subjects. Since the advertisement at Annexure B gave the admission programme only for students upto Sr.No. 4500 in the merit list, the petitioner did not know as to when she would get admission in the second round.

4. Mr. Sompura, learned AGP for the respondents has submitted that a clarification was given in the second advertisement dated 12.10.1997 that the detailed programme for the admission process after 16.10.1997 will be available at all the engineering/pharmacy colleges and polytechnics in the State and that the petitioner is not, therefore, justified in contending that the petitioner could not have any information regarding the admission

process as her serial number was after 4500. It is further contended by Mr Sompura that the petitioner did not remain present during the admission process from 17.10.1997 to 19.10.1997 and that had the petitioner remained present during that period, Civil Engineering at Bhavnagar and Modasa were open for free seats. He submitted that since the petitioner neither remained present nor cared to inquire about the available admissions between 17.10.1997 and 19.10.1997, the petitioner cannot now make any grievance.

5. In rejoinder, the learned counsel for the petitioner submitted that the petitioner's father was not well and the petitioner had made inquiries at the L.D. Engineering College premises where the admission process was being carried on, but the petitioner was informed that the petitioner was already late in approaching the admission committee and, therefore, nothing could be done in the matter. It is also orally submitted on behalf of the petitioner at the time of hearing that the petitioner's enquiries with the local college had not yielded any result. The petitioner has filed the present petition praying for a writ of mandamus to direct the respondent to give the petitioner admission to engineering degree course.

6. In view of the fact that the petitioner has approached this Court after a delay of almost two months since the admission process closed on 19.10.1997, the Court cannot grant any relief in favour of the petitioner in spite of the fact that less meritorious students have been able to secure admissions to degree engineering course. However, even while declining the relief to the petitioner, this Court cannot help observing that just as the respondents had given detailed programme for the admission procedure for students upto Sr.No. 4500 in the merit list as per advertisement dated 9.10.1997, the respondents ought to have given similar indication for the interview schedule for the admission process for students below Sr. No. 4500 in the merit list. It is difficult to appreciate as to how students would be able to get information regarding the possibility of their securing admissions at different engineering/pharmacy colleges and polytechnics spread all over the State by approaching a particular local college when the question of relative merits of students and the options being exercised by students all over the State in a centralized admission system would not be available with a particular local college. The respondents should, therefore, take care while carrying on the admission process in the future years to ensure that the students in the merit

list at whatever number they may be, are informed in advance at least through public notices in all leading daily newspapers in the State, about the dates on which the students falling between particular serial numbers in the merit list can expect themselves to be interviewed for the admission process by the Centralised Admission Committee.

7. The learned counsel for the petitioner further submits that this year the petitioner has remained without securing admission to any college, but at least next year the petitioner's case may be considered for admission to a degree engineering course and that too without deduction of marks on the ground that the petitioner had passed Higher Secondary Examination in May, 1997 and is applying for admission in the academic year 1998-99.

It will be open to the petitioner to make a representation to the respondents in this behalf. As and when such representation is made by the petitioner, the respondents shall consider the same sympathetically keeping in mind the observations made in this judgment, in the matter of not making proper announcement for students below Sr.No. 4500 in the merit list for the second round in October, 1997.

8. Subject to the aforesaid observations and liberty granted to the petitioner, the petition is dismissed.

Rule is discharged.

Sd/-

(M. S. Shah, J.)